

REMARKS

The specification and abstract have been amended to make editorial changes therein, bearing in mind the criticisms in the Official Action, to place the application in condition for allowance at the time of the next Official Action.

Claims 1-17 were rejected as unpatentable over CHAPONNIERE et al. 6,449,490 in view of PANKAJ 2002/0183066 and BOLGIANO et al. 6,366,568. Reconsideration and withdrawal of the rejection are respectfully requested.

The three references in combination do not disclose the step of selecting at least one channel that has the best current transmission quality indication position, the position being relative to the transmission quality indications stored for that channel during the time window.

CHAPONNIERE et al. disclose a system that selects the channel that has the greatest ratio of current conditions to average conditions (column 6, lines 40-65). In other words, the system determines an average for each channel (the horizontal lines in Figures 2A and 2B) and prepares a ratio of the current condition to the average for each channel, and selects the channel with the greatest ratio. The reference does not determine a current transmission quality indication position relative to the stored indications and does not

make a selection based on the best position among the channels. The term "position" is to be read within the context of the specification, where in the term indicates a numerically ordered rank. See, for example, Figure 2 and the discussion at page 9. Channel 1 has a current indication whose numerically ordered position is first among the indications store during the time period (at time t the indication is "4", which is ranked higher than the eight stored indications). Channel 2 has a current indication whose numerically ordered position is third among the indications store during the time period (at time t the indication is "5", which is ranked lower than the two "6" indications at times t-3 and t-6). Channel 3 has a current indication whose numerically ordered position is fourth or fifth among the indications store during the time period (at time t the indication is "3", which is ranked lower than the stored indications whose indications are "4" and "5"). Thus, channel 1's numerically ordered position of first is higher than the third and fourth/fifth numerically ordered postions for channels 2 and 3, and channel 1 is selected on this basis even though channel 2 has a higher indication.

It appears that the Official Action does not take the word "position" into account at all. The explanations and the art refer to a current condition or an average

condition, not to a "position" of the transmission quality indication.

The other references also do not disclose or suggest the claimed "position" and claims 1-17 thereby avoid the rejection under §103.

New claim 18 has been added. Consideration and allowance of claim 18 are respectfully requested. The cited references do not disclose that during the time window and for each channel, the current transmission quality indication is numerically ordered (1st, 2nd, 3rd, etc.) relative to the stored indications to provide a numerically ordered position of the current indication relative to the stored indications, where the channel that has the highest numerically ordered position is selected from among the plural channels. As noted above, the references do not disclose or suggest determining a numerically ordered position.

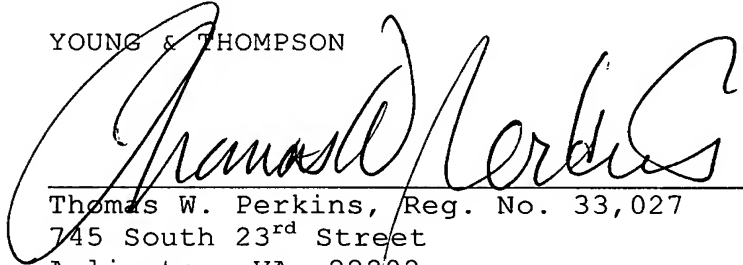
In view of the present amendment and the foregoing remarks, it is believed that the present application has been placed in condition for allowance. Reconsideration and allowance are respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment

to Deposit Account No. 25-0120 for any additional fees required
under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

A large, stylized handwritten signature in black ink, appearing to read 'Thomas W. Perkins', is written over a horizontal line.

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